

# NEW MEXICO PUBLIC REGULATION COMMISSION

## COMMISSIONERS

DISTRICT 1 JASON MARKS, CHAIRMAN  
DISTRICT 2 DAVID W. KING  
DISTRICT 3 BEN R. LUJAN  
DISTRICT 4 CAROL K. SLOAN  
DISTRICT 5 SANDY JONES, VICE CHAIRMAN



1120 Paseo de Peralta/P.O. Box 1269  
Santa Fe, NM 87504-1269

Daniel Mayfield, Chief of Staff  
(505) 827-4433

Office of General Counsel  
Robert Hirasuna, General Counsel  
(505) 827-6947 - Ph  
(505) 827-4194 - Fax

Received & Inspected

DEC 23 2008

FCC Mail Room

December 22, 2008

Records Clerk  
Federal Communications Commission  
9300 East Hampton Drive  
Capitol Heights, MD 20743

Re: In The Matter Of High-Cost Universal Service Support, WC Docket 05-337; Federal- State Joint Board On Universal Service, CC Docket 96-45; Lifeline And Link Up, WC Docket 03-109; Universal Service Contribution Methodology, WC Docket 06-22; Numbering Resource Optimization, CC Docket 99-200; Implementation Of The Local Competition Provision Of The Telecommunications Act Of 1996, CC Docket 96-98; Developing A Unified Inter-carrier Compensation Regime, CC Docket 01-92; Inter-carrier Compensation For ISP-Bound Traffic, CC 99-68; IP-Enabled Services, WC Docket 04-36.

Dear Sir or Madam:

Enclosed please find the original and 13 copies of the New Mexico Public Regulation Commission's *Ex Parte Comments*, issued on December 22, 2008 for filing in the above-referenced Dockets. Please be advised that the Comments are also being filed electronically today.

Sincerely,

  
Margaret Caffey-Moguin  
Acting General Counsel

# NEW MEXICO PUBLIC REGULATION COMMISSION

## COMMISSIONERS

DISTRICT 1 JASON MARKS, CHAIRMAN  
DISTRICT 2 DAVID W. KING  
DISTRICT 3 BEN R. LUJAN  
DISTRICT 4 CAROL K. SLOAN  
DISTRICT 5 SANDY JONES, VICE CHAIRMAN



1120 Paseo de Peralta/P.O. Box 1269  
Santa Fe, NM 87504-1269  
Tel. (505) 827-6940  
Fax (505) 827-4194

Daniel Mayfield, Chief of Staff  
(505) 827-4433

Received & Inspected

DEC 23 2008

FCC Mail Room

December 22, 2008

Office of General Counsel  
Robert Hirasuna, General Counsel  
(505) 827-6947 - Ph  
(505) 827-4194 - Fax

## EX PARTE COMMENTS

The Honorable Kevin Martin, Chairman  
The Honorable Deborah Taylor Tate  
The Honorable Michael Copps  
The Honorable Jonathan Adelstein  
The Honorable Robert McDowell  
Commissioners

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

**Re:** *In The Matter Of High-Cost Universal Service Support, WC Docket 05-337; Federal-State Joint Board On Universal Service, CC Docket 96-45; Lifeline And Link Up, WC Docket 03-109; Universal Service Contribution Methodology, WC Docket 06-22; Numbering Resource Optimization, CC Docket 99-200; Implementation Of The Local Competition Provision Of The Telecommunications Act Of 1996, CC Docket 96-98; Developing A Unified Intercarrier Compensation Regime, CC Docket 01-92; Intercarrier Compensation For ISP-Bound Traffic, CC 99-68; IP-Enabled Services, WC Docket 04-36.*

**Letter In Partial Support Of Qwest Regional Oversight Committee (ROC)  
Joint Commenters' Comment Regarding Universal Service And Inter-Carrier  
Compensation Reform**

Dear Commissioners and Secretary Dortch:

The New Mexico Public Regulation Commission (NMPRC) hereby files comments in partial support of comments we expect to be filed by several Western states that are members of the Qwest Regional Oversight Committee (ROC). In particular, the NMPRC joins with the ROC Commenters in opposing reform that ignores or penalizes consumers in states where access charge reductions have been already offset by state universal service contributions and/or local rate increases.<sup>1</sup> New Mexico has already undertaken significant access reform and local rate rebalancing, and has implemented a state universal service fund. Because of this, consumers in

<sup>1</sup> See Reply Comments of the Early Adopter State Commissions, Maine Public Utilities Commission; Nebraska Public Service Commission; Vermont Department of Public Service; and Vermont Public Service Board, CC Docket No. 01-92 (February 1, 2007).

our state pay increased fees for local exchange services. Under Chairman Martin's proposal, as the NMPRC understands it, consumers in our state would bear significant additional subscriber line charges in order to fund in other states what we and other early-adopter states have already funded.

Any reform of inter-carrier compensation and universal service support must ensure that rates and service quality among states, as well as across rural and urban areas, are reasonably comparable, and that the surcharge burdens are also reasonably comparable.

With respect to the situation of Mid-Size Carriers, the NMPRC agrees with the ROC Commenters that mere payment of dividends by itself should not be a disqualifier for USF support. Telecommunications companies need an opportunity to earn reasonable profits and may need to pay dividends in order to attract the private capital necessary to operate and expand their business. However, the NMPRC is in agreement with Chairman Martin that it is appropriate to weigh financial performance in evaluating which carriers need support from the Fund, and how much support should be provided. The burden of universal service support on the retail consumer should be the minimum needed to support universal service needs. Failure to consider the financial performance of carriers may lead to excessive and unnecessary subsidies, unnecessary costs to consumers, and even the suppression of competition.

To the extent that Chairman Martin's revised proposal repeats elements of the Missoula Plan, the NMPRC remains very concerned about the impact of new or increased subscriber line charges ("SLCs") and surcharges on ratepayers, especially residential ratepayers who make relatively few toll calls; requiring ratepayers in states like New Mexico that have already reduced intrastate access rates to subsidize such reductions in other states; unequal treatment of different classes of carriers, with potentially anti-competitive effects; and preemption of state authority over intrastate rates.

As the NMPRC has said before,<sup>2</sup> this is a very complex matter involving significant public interest concerns, as well as large private financial interests. For that reason, the NMPRC again urges the Commission not to make a final decision in this matter without providing due process to all interested parties, with sufficient time provided for full and thoughtful analysis.

---

<sup>2</sup> See NMPRC October 23, 2008 Ex Parte Comment (copy enclosed with paper filing), filed in the following dockets: *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *In the Matter of Petition of AT&T Inc. for Interim Declaratory Ruling and Limited Waivers Regarding Access Charges and the ESP Exemption*, CC Docket No. 08-152; *In the Matter of IP-Enabled Services*, WC Docket No. 04-36; *In the Matter of Universal Service Contribution Methodology*, WC Docket No. 06-122; *In the Matter of Petition for Declaratory Ruling Filed by CTIA*, WT Docket No. 05-194; *In the Matter of Jurisdictional Separations & Referral to the Federal-State Joint Board*, CC Docket No. 80-286.

These comments are submitted at the direction of NMPRC Chairman Jason A. Marks, and in accordance with a duly passed motion of the NMPRC that had unanimous support.

Sincerely,



Margaret Caffey-Moquin  
Acting General Counsel

# NEW MEXICO PUBLIC REGULATION COMMISSION

## COMMISSIONERS

DISTRICT 1 JASON MARKS, CHAIRMAN  
DISTRICT 2 DAVID W. KING  
DISTRICT 3 BEN R. LUJAN  
DISTRICT 4 CAROL K. SLOAN  
DISTRICT 5 SANDY JONES, VICE CHAIRMAN



1120 Paseo de Peralta/P.O. Box 1269  
Santa Fe, NM 87504-1269

Daniel Mayfield, Chief of Staff  
(505) 827-4433

Office of General Counsel  
Robert Hirasuna, General Counsel  
(505) 827-6947 - Ph  
(505) 827-4194 - Fax

Received & Inspected

EX PARTE OR LATE FILED OCT 24 2008

October 23, 2008

FCC Mail Room

Records Clerk  
Federal Communications Commission  
9300 East Hampton Drive  
Capitol Heights, MD 20743

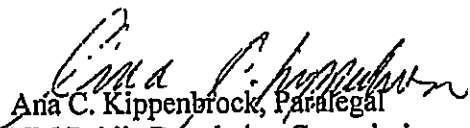
ORIGINAL

Re: In the Matter of Developing a Unified Intercarrier, Docket No. 01-92

Dear Sir or Madam:

Enclosed please find the original and 13 copies of the New Mexico Public Regulation Commission's Ex Parte Comments issued on October 23, 2008, for filing in Docket Number 01-92.

Sincerely,

  
Ana C. Kippenbrock, Paralegal  
NM Public Regulation Commission  
Office of the General Counsel  
Phone: (505) 827-6947  
Fax: (505) 827-4194  
E-mail: ana.kippenbrock@state.nm.us

No. of Copies rec'd 0 + 13  
List ABCDE

1 888 4 ASK PRC  
www.nmprc.state.nm.us

**PRC**  
Working for You!

# NEW MEXICO PUBLIC REGULATION COMMISSION

## COMMISSIONERS

DISTRICT 1 JASON MARKS, CHAIRMAN  
DISTRICT 2 DAVID W. KING  
DISTRICT 3 BEN R. LUJAN  
DISTRICT 4 CAROL K. SLOAN  
DISTRICT 5 SANDY JONES, VICE CHAIRMAN



1120 Paseo de Peralta/P.O. Box 1269  
Santa Fe, NM 87504-1269  
Tel. (505) 827-6940  
Fax (505) 827-4194

Office of the Chairman

Received & Inspected

OCT 24 2008

FCC Mail Room

EX PARTE OR LATE FILED October 23, 2008

## EX PARTE COMMENTS

The Honorable Kevin Martin, Chairman  
The Honorable Deborah Taylor Tate  
The Honorable Michael Copps  
The Honorable Jonathan Adelstein  
The Honorable Robert McDowell  
Commissioners

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

**Re:** In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; In the Matter of Petition of AT&T Inc. for Interim Declaratory Ruling and Limited Waivers Regarding Access Charges and the ESP Exemption, CC Docket No. 08-152; In the Matter of IP-Enabled Services, WC Docket No. 04-36; In the Matter of Universal Service Contribution Methodology, WC Docket No. 06-122; In the Matter of Petition for Declaratory Ruling Filed by CTIA, WT Docket No. 05-194; In the Matter of Jurisdictional Separations & Referral to the Federal-State Joint Board, CC Docket No. 80-286

**Letter In Support Of NARUC Motion/Request For Public Comment On Recently Circulated "Report And Order, Order On Remand, And Further Notice Of Proposed Rulemaking" On Universal Service And Inter-Carrier Compensation Reform Filed October 21, 2008.**

Dear Commissioners and Secretary Dortch:

The New Mexico Public Regulation Commission, in its open meeting of October 23, 2008, discussed press reports of the October 15, 2008 draft that was circulated by the Hon. Kevin Martin, Chairman of the FCC and has been placed on the FCC's Nov. 4, 2008 Agenda. Most representatives of major carrier groups who were present and the New Mexico Attorney General's office spoke in favor of a more deliberate and open process in this major rulemaking.

The New Mexico Public Regulation Commission strongly agrees with the position of the National Association of Regulatory Utility Commissioners (NARUC) in this matter, as set forth in NARUC's Motion/Request of October 21, 2008. This is a very complex matter involving significant public interest concerns, as well as large private financial interests. For that reason, we urge the Commission not to make a final decision in this matter without providing sufficient due process to all interested parties, including issuing new notice and allowing additional comment on the proposed action.

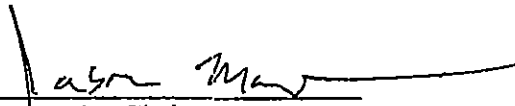
We respectfully request that the Commission take the following steps in order to ensure a proper record before final action is taken:

1. Decide the future treatment of compensation for termination of ISP-bound traffic before the November 5 court deadline.
2. Issue a Further Notice of Proposed Rulemaking (FNPRM) summarizing the many discrete issues raised in the record, enunciating the Commission's tentative conclusions, proposed legal theories, and factual determinations on each issue.
3. Given the breadth of the proposed action, provide interested parties at least 90 days to consider and comment.

New Mexico has already reduced access rates to interstate levels and has rebalanced rates. Our Commission is concerned with the possible federal preemption of intrastate rates and resulting undue cost burdens on ratepayers in our geographically large state with many rural areas. These important issues should only be addressed in accord with appropriate due process considerations.

Submission of the comments presented herein were supported by NMPRC Commissioners King, Lujan, Jones, and myself. I am submitting these comments on behalf of myself and my three colleagues. Our fifth commissioner was not present for today's meeting.

Sincerely,

  
\_\_\_\_\_  
Jason Marks, Chairman